App. F. IX-1

1927.

(Courts)

File No. 157-27

Previous References

S.R 15-(4(1-2)

Refs 36-16-1

Serial Nos. 1 – 2

PRESERVED

Later References

General and Revenue Secretariat.

Serial Nos. Two

Part B for February 1928

SUBJECT

Exemption of Nizam Palaces from the payment of Court fees, Process fees, etc., in Suits filed on behalf of Nizam Palaces.

No PLS 12 of 9-2-28

To the Hon'ble Secretary to

H H

State that the institution and process fees, etc., being eventually recoverable as costs in the case, exemption from payment of these fees, if given, would be of benefit to defendant by reducing the amount of costs legitimately payable by him & Government, therefore, reimburse the Palaces, as occasion arises, for any expenditure incurred by way of institution and process fees, etc., if they are not recovered in the shape of court costs.

Memorandum / Yes. for

18-2-28.

G. R. S. APP F.III—1] 1927.28

GENERAL AND REVENUE SECRETARIAT.

(Courts)

NOTES.

File No. 18

FILE HEADING.

Exemption to the Palace from the payment of court fees in cases filed in the civil courts.

FROM

The Hughes Hey to H.H

No. 3128 Dated 30.12.27 Received 4-1-28

Diary No. 3274	Enclos.	Spare copies	Serial No. 1

BRIEF ABSTRACT OF LETTER.

States that the Palace has been exempted from the payment of Stamp fees and Registration fees and that in the recent civil case against the Head Stamp of the Palace Treasury, a sum of Rs 1585/- has been spent towards institution charges and requests that the Palace may be exempted from payment of fees in cases filed in civil courts.

NOTES AND ORDERS.

Submd

1) Under section 42 of the Court fees Regulation, the Govt. may by notification in the Official Gazette reduce or remit in the whole or in any part of myore, all or any of the fees mentioned in the first and second schedules to this

NOTES—First Sheet.

General and Revenue Secretariat.

C/6 File No. 156 of 1927-28

Serial No.

Regulation annexed and may in like manner cancel or vary such order. Govt have exempted certain persons such as Palaces, Jahgirdars from payment of fees in respect of plaints or applications for the recovery of mesne profits due to them. The Palace also may therefore be similarly exempted by a notification.

Flag X
Page 29, Part D, Mysore Stamp Manual 1928.

8/11/28

2) The Huzur Secy's letter relates to 3 points, namely

(i) Exemption of the Palace from payment of Court fees;

(ii) Exemption from payment of process fees; and

(iii) Refund of the amounts paid under the two heads in the case against the Palace Head Shirastadar.

3 (i) Exemption from payt of Court fees in cases instituted by or on behalf of the Palace can be granted under Sec 42 of the Court Fees Regn.

4 (ii) Process fees are levied in accordance with rules made by the Chief Court under Sec 29 of the said Regulation, but these fees do not find a place in the I & II Schedules of the Regn, the items mentioned in which alone come within the purview Sec 42. There seems to be no other provision enabling the remission of process fees

5 (iii) Refund of the Court fee paid in the case

NOTE—Contn. sheet.

WD 0324 -GPB—60,000—24-5-27

3274 (3)

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Refered to is for orders, with reference to sec 42. Refund of process depends on the order passed in regard to no (ii)

Submitted for orders.

VDM 7/11

Please put up and Rules for the of Stamp & Court Fees Acts 7/11 1911

6. There are three points to be considered:
1. Remission of Court fees in cases filed by the Talaris generally.
2. Remission of process fees in such cases and
3. Refund of the Court fees & process fees already paid in the Suits filed by the Talaris.

7. As in regard to 1. under section 42 of the Court Fees Regn Govt may reduce or remit all or any of the fees mentioned in the I or II Schedule to this Regulation. Under this section Govt may remit the Court fees as Plaints payable under Schedules I & II to the Regulation.

As in regard to 2. process fees are not prescribed only in the schedules I & II so remission cannot be made under section 42 of the C.F. Regn. Under section 29 of the Regn the Chief Court make rules regarding process fees, and the Chief Court may be requested to issue

NOTE—Contn. sheet.

WD 0824 -GPB—60,000—24-5-27

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rules exempting the Palace from paying process fees in cases filed here.

2 With regard to 3. refund is provided for in sections 10, 11 & 12 of the C.F. Regn with regard to Court Fees and Relief is given under sections 17, 18 & 19 in respect of Probates, Letters of Administration etc. There is thus provision enabling Govt to order refund of Court fees once paid.

3 With regard to process fees also, it is doubtful if the Chief Court can frame a rule to even refund the process fee once paid for the refund of which there is no rule. For under ~~the corresponding~~ section 29 of the Court Fees Regn, until the rules are framed, process fees are to be levied under the existing rule.

4 It may be pointed out that in the items of expenditure shown in the statement annexed to the P.W.D, a receipt stamp of the value of one anna has been levied. This is not leviable as under the Notfn dated 8th July 1905, ~~the Palace is exempted~~ from paying stamp duty.

* page 22 Stamp manual part V

NOTE—Contn. sheet.

WD 0824—GPE—60,000—24-5-27

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12 For refund of this stamp, section 62 of the Stamp Regn seems to be applicable and an application for refund may perhaps be made before me.

Regd - D)

14/1

Supt Please mng it

16/1/28

13 Three questions arise for consideration, viz first whether the Govt have power to reduce or remit all or any of the fees ~~paid~~ payable on a plaint to be filed in civil court on behalf of the Palace; Secondly whether the plaintiff in such cases can be exempted from payment of process fees; & Thirdly whether the Govt have power to refund the fees already paid.

14 As regards the first point the Govt seem to possess power to ~~exempt~~ remit the plaints filed by the Palace - ~~stamp~~ under Sec 42 of the CC Fees Regn

15 On second question the Ch. Ct may be asked to take action to modify the rules

16 On third point, I find no provision ~~to refund~~ ~~orders~~ enabling ~~refund~~ by Govt to order refund of the ct fee once paid.

Chief Sec'y with compts

28-1-28

24/1-28

NOTE—Contd. sheet

CHIEF SECRETARY.

24 JAN 1928

W.D 0824—GPB—60,000—24-5-27

General and Revenue Secretariat. | No. File No. 156 of 1927.

Serial No.

17 Although institution and process fees may be paid by the Palace in the first instance, they ought to be recovered in the last resort from the parties concerned. To exempt the Palace formally from payment of these fees would really ~~amount to~~ be to the benefit of the defendants, by reducing the court costs legitimately payable by them. It would perhaps be sufficient to reimburse the Palace from time to time for any expenditure incurred by them in institution and process fees, if the same are not recovered in the shape of court costs.

18 To the Law Secretary, With compliments,

for favour of opinion as to the feasibility of the above proposal.

Nil
25/1

19 The above proposal seems to be the best under the circumstance of the case as the formal exemption is ~~of~~ to be not expedient. In this connection I may venture to point out that in Br India Sec'y of State is not exempted from payment of Court fee payable on the plaints presented by him before any court of law.

Chief Sec'y
with Compts.

26/1

CHIEF SECRETARY.
27 JAN. 1928

NOTE—Cover sheet.

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General and Revenue Secretariat.

No. File No. 156 of 1927.

DEWAN'S OFFICE
Received on
6 - FEB. 1928
Reg No. 1859.

OFFICE OF THE THIRD MEMBER OF COUNCIL
28 JAN. 1928
No. 7213.

Serial No.

20 Subs for orders

Third Member 27/1

Dewan 27/1

21

I agree with the Law Secretary that witnesses and panchayatdars paid on behalf of the Palace, and not recovered from the defendant under "costs" may be refunded

28/1/28

~~3204~~ ~~30/1/28~~

6124 30/1 Finance Member) 30.1.28

22 30/1/28

30/1.

23 Draft 31-1-28

24

Issue with a draft letter to the Hon'ble Secy.

2/2/28 4/2

Secy) 4/2

NOTE—Contn. sheet.

WD 0829—GPP—60,000—24-5-27

Issued with approved draft 4/2/28

Dewan. Submitted for kind perusal 4/2

General and Revenue Secretariat.

do File No. 156 of 1927.

Serial No. 2

To The Hujur Secy to H.H. the Maharaja
No P 4572 dt 9.2.28.
States that the institution and process fees etc being eventually recoverable as Costs in the case, exemption from payment of these fees, if granted, would only benefit the defendant by reducing the Court Costs legitimately payable by him and that Govt will, therefore, reimburse the palace, as occasion arises, for any expenditure incurred by way of institution and process fees etc if they are not recovered in the shape of Court costs:

To The Regr Chief Court
No P 4573 dt 9-2-28
Rd a Copy of the above

372

NOTE—Contn. sheet.

WD 0824 -GPB—60,000—24-5-27

3276/27

The Palace,

No. 3128 Mysore 29th December 1927.

30.

CS 156-27-1

From

T. THUMBOO CHETTY, Esq., B.A.,

Huzur Secretary to His Highness

the Maharaja of Mysore.

To

N. Madhava Rao, Esq., B.A., B.L.,

Chief Secretary to the Government of

H.H. the Maharaja of Mysore, Bangalore.

Sir,

I have the honor to state, that there exist at present - Government Orders (Vide particulars noted in the margin) exempting the Palace from payment of stamp fees and Registration fees etc. Though, as regards Court fees, process fees etc, there is no similar provision under which such exemption can be claimed, the Government have not been addressed on the subject, owing probably to the fact, that the need for the same did not arise in the past.

1). Re:- Stamp fees.
a) Govt. Notification No.Fl.234/S.R. 24-05-3 dated 8-7-1905.
b) do No.Fl.4165/S.R.15-09-2 dated 19-2-1910.
2) Registration fees.
Government Order No.J.3981/Reg.36-16-1 dated 9-5-1917.

Recently, however, in connection with the Palace Treasury Defalcation Case, action has been taken to file a Civil Suit against the late Head Shroff of the Palace Treasury, and a sum of Rs 1585-0-0 has so far been spent towards Institution charges, as per copy memo of accounts of Public Prosecutor, enclosed herewith.

I therefore request that, sanction of Government may kindly be accorded for the refund of the amount referred to above and necessary orders issued exempting the Palace from payment of Court fees process fees etc..

I have the honor to be,

S i r,

Your most obedient servant,

For Huzur Secretary.

VGB/MGR

2

In the Court of the District Judge, Mysore

Plaintiff. O.S. No. 8/27-28 Defendant.

Mr.T. Thumboo Chetty
Huzur Secretary. -VS- C.S.Lakshminarayana Setty

Date	Particulars.	Receipts	Expenditure
27-11-1927	For Court Fee stamp to file suit and process charges etc.	1560- 0- 0	
28-11-1927	For receipt stamp to cash pay order.		0- 1- 0
"	For stamp paper for plaint.		1535- 0- 0
"	For vakalat and contingency.		1- 8- 0
"	For stamp for attachment application.		0-12- 0
30-11-1927	For stamps for process fees etc.		3-11- 0
"	For additional process fee.		8- 7- 0
1-12-1927	For fresh application regarding attachment.		0-12- 0
2-12-1927	For prohibitory notices to debtors.		9-11- 0
7-12-1927	For notice to defendant prohibiting him from collecting debts due to him (to be paid to day into court)		0-10- 0
			1560- 8- 0
	Balance due.		0- 8- 0

Mysore
7-12-1927

Sd/ M. Srinivasiengar
Public Prosecutor and
Govt. Pleader, Mysore.

N.B:- Further amount remitted to the Public Prosecutor on 7-12-1927. 25- 0- 0

Grand total. 1585- 0- 0

Copy
for Huzur Secretary

4 copies 3

To

The Huzur Secretary to

His Highness the Maharaja.

Sir,

With reference to your letter No. 3128 dated 30-12-1927, requesting that the Palace may be exempted from the payment of court fees, process fees, etc. in suits filed on behalf of the Palace and that the fees amounting to Rs.1585-0-0 so far spent by the Palace on this account in the suit against the late Head Shroff of the Palace Treasury in connection with the Palace Treasury Defalcations may be refunded, I am directed to state that the institution and process fees, etc. being eventually recoverable as costs in the case, exemption from payment of these fees, if granted, would only benefit the defendant by reducing the court costs legitimately payable by him and that Government will, therefore, reimburse the Palace, as occasions arise, for any expenditure incurred by way of institution and process fees etc if they are not recovered in the shape of court costs.

I have, etc.,

Secretary to Government,

Law Department.

KNN